

CLINTON TOWNSHIP BOARD OF APPEALS

REPORT OF MEETING

WEDNESDAY, SEPTEMBER 19TH, 2018

PRESENT: Francis Marella, Chairperson
James D'Angelo, Vice-Chairperson
Robert M. Campbell, Secretary
Kenneth Pearl
Denise C. Trombley

ABSENT: Michael Deyak (Excused)
Ernest Hornung (Excused)

STAFF: Carol Sobosky, Office Manager II
Department of Planning and Community Development

The meeting was called to order at 6:41 p.m.

APPROVAL OF AGENDA

Motion by Mr. Campbell to approve the agenda as presented, with the addition of Item #6 – Discussion on options offered to petitioners when a full Board is not present.

Mr. Pearl stated they should not have a discussion on that topic when a full Board is not present.

Mr. Campbell felt they do not need a full Board present to discuss it.

Mr. Pearl disagreed, commenting a full Board should be present when this item is discussed.

Mr. Campbell withdrew his motion.

Motion by Mr. D'Angelo, supported by Mr. Pearl, to approve the agenda as submitted.
Motion carried.

Mr. Marella explained the parameters under which this Board can act and how the public hearing will be conducted. He further explained that, as stipulated in the Township Ordinances, all variances granted by the Board of Appeals are subject to several standard conditions as follows: 1) The petitioner must comply with all applicable requirements of Township ordinances; 2) The project work requiring the variance must be completed within two years of the date that the variance was granted; 3) The project work must be completed substantially in accordance with the plans submitted to the Board of Appeals; and 4) The variance is valid only for the useful life of any structure(s) on the property for which variance is granted.

Mr. Marella explained that there are only five members present this evening, and four votes are needed to approve a variance. He inquired as to whether anyone wishes to withdraw at this time and come back at a later date; however, there were no such requests from any of the petitioners at this time.

**PARTS OF LOTS 260 AND 264, AND ALL OF LOTS 261 THROUGH 263,
LIVERPOOL SUBDIVISION, LOCATED WEST OF HARPER, NORTH OF
STATFORD, ADDRESSED AS 38639 HARPER AVENUE (SECTION 24)**

**- APPEAL: SFR – HARPER, 38639
FILE #18-6843: PETITIONED BY MS. CHERRY REGGIO
REPRESENTED BY MR. ERIK HEIDERER, POLYARCH, INC.**

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated August 29th, 2018 into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 24 owners and/or occupants of property located within 300 feet of the land in question, with 1 of those returned as undeliverable. There were no written replies received in response to the mailing.

Mr. Erik Heiderer, of Polyarch, 44045 N. Gratiot, Clinton Township, Michigan 48036, representing the owners of the property. He explained that his client wants to put an addition on her house with a depth of 12 feet. He noted the original property is exactly 37 feet, so with the encroachment of the 12 feet, that leaves a 25-foot rear yard setback. He explained they have an abandoned alley behind them, and the house has a fence that surrounds the alley, which gives them exactly 35 feet on that portion of the street. He noted it is deceiving because they are asking for 10 feet, but where the fence is actually provides the additional ten feet. He addressed the practical difficulty being the position of the house on the property does not give them any room at all to do any renovations or construct any additions to the house.

Ms. Cherry Reggio, 38639 Harper, Clinton Township, Michigan 48036, had a sketch of her home on her property, noting the existing fence has been there for many years. All of her neighbors have fences, and all of them encompass part of the former alley. She replied to inquiry that she does not know whether a portion of the alley has been dedicated to each of the homes on the street. She moved in ten years ago and the fence was there.

There were no comments from the audience.

Mr. Campbell inquired as to whether the fence referred to is the wooden fence.

Mr. Heiderer replied affirmatively.

Mr. Campbell explained he is not entirely familiar with the process of acquiring abandoned roads, and he does not know whether it automatically goes to the homeowner or whether it has to be purchased.

Mr. Heiderer replied it is generally purchased from the local city or township when the alley is abandoned. He stated he does not know if the former property owner purchased it and it is considered part of the property, adding he does not know when the alley was abandoned.

Mr. Pearl stressed that the point is the fact there is additional room. He stated generally one-half the alley goes to the abutting property owners on each side of the alley and added that sometimes the community charges for that property, and sometimes they do not charge.

Motion by Mr. Campbell, supported by Mr. D'Angelo, with reference to File #18-6848 and application from Ms. Cherry Reggio, 38639 Harper Avenue, Clinton Township, Michigan 48036, as represented by Mr. Erik Heiderer, Polyarch, Inc., 44045 Gratiot Avenue, Clinton Township, Michigan 48036, for variance to Clinton Township Planning and Zoning Code, Chapter 1292.01, Land Use Regulations, Schedule of Regulations Limiting Height, Bulk, Density and Area; Chart, concerning parts of Lots 260 and 264, and all of Lots 261 through 263, Liverpool Subdivision (Section 24), fronting the west line of Harper, north of Stratford, addressed as 38639 Harper Avenue, that variance be granted to permit the construction of an addition to an existing single-family home in the R-3 One-Family Residential District, resulting in a 25-foot rear yard setback, being 10 feet less than the minimum required 35-foot rear yard setback; further, this grant of variance is based on claimed practical difficulty being the space effectively exists because of the abandoned alley behind the property; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, D'Angelo, Trombley, Pearl, Marella. Nays – None. Absent – Deyak, Hornung. Motion carried.

LOT 17, MORAVIAN ACRES SUBDIVISION, GENERALLY LOCATED AT THE NORTHWEST CORNER OF SARNETTE AND KAPPA, ADDRESSED AS 38308 SARNETTE (SECTION 21)

**- APPEAL: SFR – SARNETTE, 38308
FILE #18-6849: PETITIONED BY MR. & MRS. TOM & LORI BARRON
REPRESENTED BY MR. TODD L. FROST**

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated August 29th, 2018 into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 35 owners and/or occupants of property located within 300 feet of the land in question, with none of those returned as undeliverable. There were no written replies received in response to the mailing.

Mr. Thomas Barron, 38308 Sarnette, Clinton Township, Michigan 48036, stated he is here with his wife, Lori.

Mr. Todd Frost, of Todd Frost Builders, 159 South Highland, Mount Clemens, Michigan 48043, representing the petitioners, offered to answer questions.

Ms. Lori Barron, 38308 Sarnette, Clinton Township, Michigan 48036, explained they are trying to add an addition to their garage. There is an existing shed and they want to remove that and add to the garage. She informed she has a couple of signatures in support of the variance request from neighbors who have no objection.

Mr. Frost explained that the petitioners recently purchased this house and they realized the home is already four feet into the required setback. They now want to add onto the garage and discovered the situation with the house being four feet into the setback. He noted the shed is already 14 feet away, and they are not proposing to build any further from the house than the existing shed, which he pointed out has not been a problem to anyone thus far.

Mr. Marella inquired as to whether they are proposing to replace the shed with a brick-and-mortar two-car garage.

Mr. Frost replied affirmatively, noting they can get a permit to move the shed to another location on the property. He stated it is a nice shed and the homeowners would like to save it, but they can put it in the rear yard where they will not need a variance. He added they will apply for a permit to move the shed, and he understood it can be placed anywhere in the rear yard as long as it remains a minimum of six feet from the lot line.

Mr. Campbell noted that this is projecting into the side yard setback, leaving only 12 feet; however, the minimum required setback is 30 feet, so he needs an 18-foot variance. He explained the idea of a corner lot with a side yard setback requirement is so the people facing the street that is abutting their side yard, which in this case is Kappa, have the right to look down the street and see the front yards of the houses and

not see the back of a garage. The idea is to keep the side yards of the corner lots the same as the front yard setbacks on the adjacent street. He stated the shed is in the side yard and is not legal, although he noted the petitioners indicated it has been there for the better part of 25 years.

Ms. Barron stated no one on Kappa had a problem with it, and she was able to obtain a couple of signatures from those residents.

Mr. Campbell reminded this is not a popular vote of the neighbors, and he pointed out the Township cannot allow every street to write their own ordinances or rules based on majority. He explained practical difficulty has to be presented, and he felt the ordinance is very clear as to what the side yard should be.

Ms. Barron questioned whether there is a grandfather clause.

Mr. Campbell replied no.

Mr. Frost stated he has photographs of another house that has something similar to what is being proposed by the petitioners.

Mr. Marella stated each case is considered on its own merits, and what happened at another location may be due to completely different circumstances.

Mr. Campbell explained the difference would be if there is a street where two houses are back-to-back, side yards may be almost zero if there are no front yards looking down across that side yard; therefore, there may be situations that look similar but are actually not the same situation. In this case, it is a side yard abutting a huge number of front yards on Kappa.

Mr. Frost understood what Mr. Campbell is saying but showed a picture of a home within a mile of this location where there is a similar situation on a corner lot on Moravian and Tara Drive, and it shows how much closer they are to the road than what is being proposed in this case.

Mr. Campbell stated they may have been given a variance at the time, but it could have been based on a different situation.

Discussion took place regarding whether the petitioners would be willing to get rid of the shed.

Mr. Barron replied to inquiry that they would be willing to get rid of the shed.

Mr. Campbell stated that is different than what was indicated in their application.

Ms. Barron clarified that they are moving the shed, noting they can put it somewhere else on their property.

Mr. Pearl stated they are discussing the elimination of the shed from the property.

Mr. Campbell stated they could have the shed by itself in the back yard because they have no other accessory structures.

Ms. Trombley stated the petitioners just agreed to removing the shed from the property if they were given the choice of either the garage or the shed.

Mr. Campbell felt there should not be a garage permitted to encroach into the side yard setback.

Mr. D'Angelo inquired as to how many feet from the edge of the road to the property line.

Mr. Frost replied that Kappa Drive is 20-feet 6-inches in width, and there is 17 feet from where they want to build their addition. The house is non-conforming so is already encroaching into the side yard setback by 4 feet, which they were unaware of when they bought the house. He claimed the ordinance setback requirement when the house was built was 25 feet, and the ordinance was eventually changed to require a 30-foot side-yard setback. They have 17 feet from the road to their 30-foot side yard setback. Once they build the 14-foot addition, they will have 12 feet in addition to the 17 feet, or a total of 29 feet from the road to the side of the garage. He explained when they applied for a permit, it was originally approved on June 15th with noted exceptions, stating "R-2 minimum 10-foot side yard setback". He added that someone else caught it, voided it even though it was originally approved.

Mr. Barron pointed out that none of the neighbors were opposed to this request.

Ms. Trombley stated she does not have a problem with it as long as they are willing to get rid of the shed from the property.

Motion by Mr. Pearl, supported by Ms. Trombley, with reference to File #18-6849 and application from Lori & Tom Barron, 38308 Sarnette, Clinton Township, Michigan 48036, as represented by Mr. Todd L. Frost, contractor, 159 S. Highland Street, Mt. Clemens, Michigan 48043, for variance to Clinton Township Planning and Zoning Code, Chapter 1292.01-c, Land Use Regulations, Schedule of Regulations Limiting Height, Bulk, Density and Area; Footnotes to Schedule of Regulations Chart, concerning Lot 17, Moravian Acres Subdivision (Section 21), located at the northwest corner of Sarnette & Kappa, addressed as 38308 Sarnette, that variance be granted to permit the construction of an addition to an attached garage for a single-family home on a corner lot in the R-2 One-Family Residential District, resulting in a 12-foot setback off of Kappa Street, which is 18 feet less than the minimum 30-foot setback required; further, this variance is granted with the stipulation that the existing shed must be removed from the property; further, this grant of variance is based on claimed practical difficulty being the fact that this is a corner lot and the house already extends 4 feet into the required

setback; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Pearl, Trombley, D’Angelo, Marella. Nays – Campbell. Absent – Deyak, Hornung. Motion carried.

PART OF 1.8 ACRES FRONTING THE EAST LINE OF GARFIELD ROAD, SOUTH OF 18 MILE ROAD, ADDRESSED AS 40820 GARFIELD (SECTION 17)

**- APPEAL: CANAL PHARMACY @ PINWOOD PLAZA
FILE #18-6850: PETITIONED BY MR. MICHAEL J. PASQUAL,
CANAL PHARMACY
REPRESENTED BY MS. SELMA DAHALIC**

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated August 29th, 2018 into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 67 owners and/or occupants of property located within 300 feet of the land in question, with none of those returned as undeliverable. There were no written replies received in response to the mailing.

Ms. Veronica Moreno, 15703 Plainview Avenue, Detroit, Michigan 48223, and Mr. Mike Pasqual, 48272 Providence Drive, Macomb, Michigan 48044, were present to answer questions.

Ms. Moreno explained they are in the corner of the plaza, and there are two existing wall signs from the previous tenants. They are looking to replace those signs with their own signs.

Mr. Marella recalled it was in the past couple of years they approved the second sign for that building.

Mr. Pearl noted that was approved in 2006.

Mr. Campbell stated the variance approval for Hannigan Insurance was for a total of 40 square feet of signage, noting the petitioner is looking for a total of 72.5 square feet, which is substantially more. He explained the practice the Board of Appeals has followed where, when businesses want more signs than allowed, if the situation merits it, they are approved with the stipulation that the total combined square footage of all of the signs cannot exceed what would be permitted for one single wall sign. This building is unique in that it is very deep and very narrow. The building is only 18 feet wide, so to be allowed only 36 square feet is very small. He felt, if the petitioner’s measurements are correct as to the existing Hannigan Insurance signs, then they somehow put up signs much greater in size than what they were permitted. He noted that the diagram submitted with this application shows 72.5 square feet.

Ms. Moreno explained their sign contractor was proposing to replace what was already there.

Mr. Campbell noted that what was existing was in violation with what would have been approved by the Zoning Board of Appeals. He replied to inquiry he would be willing to grant a variance of up to 60 square feet total.

Mr. Pearl agreed and inquired as to whether the petitioner would be willing to limit the total combined square footage of their signs to not exceed 60 square feet. He questioned further whether the signs are already made.

Ms. Moreno did not believe the signs are made because they were waiting for this meeting. She stressed because they are a pharmacy, and, on the corner, they want to be seen from both sides.

Mr. Campbell felt a total of 60 square feet will give them enough space for something in the front of the building and something from the side that can easily be seen from Garfield. He felt it will be in the interest of public safety to have the two signs.

Mr. Marella inquired as to whether the petitioner is satisfied with that offer.

Ms. Moreno replied that they have a long name, so she was a little concerned about the limited size but added that if they have to cut the size a little, they will do what they can. She emphasized their main concern is to make sure they can have two signs.

Motion by Mr. Campbell, supported by Mr. D'Angelo, with reference to File #18-6850 and application from Mr. Michael J. Pasqual, Canal Pharmacy, 40820 Garfield, Clinton Township, Michigan 48038, as represented by Ms. Veronica Moreno, same address, for variance to Clinton Township Building and Housing Code, Chapter 1488.02-(e)-(1)-C and -D, Signs, Definitions and Restrictions; "Business sign", "Wall sign", concerning part of 1.8 acres of land fronting the east line of Garfield Road, south of 18 Mile Road, addressed as 40820 Garfield Road, that variance be granted to permit the installation of two (2) wall signs for a proposed pharmacy in an existing shopping center in the B-2 Community Business District (Canal Pharmacy @ Pinewood Plaza), being one (1) wall sign in excess of the maximum permitted one (1) wall sign; further, this variance is granted on the condition that the total combined square footage of the two (2) wall signs is not to exceed sixty (60) square feet; further, this grant of variance is based on claimed hardship of being required for public safety in identifying the establishment for motorists; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Campbell, D'Angelo, Trombley, Pearl, Marella. Nays – None. Absent – Deyak, Hornung. Motion carried.

REPORT OF MEETING

-- APPROVAL OF AUGUST 22ND, 2018 REPORT

Mr. Campbell requested the following correction:

Page 11, Paragraph 1, first line:

Change from: "Mr. Campbell replied stressed the tires..."

Change to: “Mr. Campbell replied and stressed the tires...”

Motion by Mr. Campbell, supported by Mr. D’Angelo, to approve the minutes of the August 22nd, 2018 Report of Meeting, as amended. Motion carried.

BOARD OF APPEALS MEETING SCHEDULE

-- CONFIRMATION OF NEXT MEETING’S AGENDA AND ATTENDANCE: WEDNESDAY, OCTOBER 17TH, 2018 AT 6:30 P.M.

Ms. Sobosky confirmed the next Board of Appeals meeting will be on Wednesday, October 17th, 2018 at 6:30 p.m., and there are six items anticipated to be on that agenda, as follows:

- A single-family residence on Rockhill for addition of a pergola that would encroach into the rear yard setback.
- Taco Bell (new location at Hall and Hayes) is requesting a second wall sign.
- Detroit Truck Sales (Gratiot/Joy) is requesting a front-yard setback with parking within the setback.
- Falcon Industries (on Macomb Industrial Drive) is requesting a height variance of 3 feet to accommodate equipment.
- A single-family residence on Manila is requesting a garage in the side yard because of a 60-foot easement for the Cottrell Drain, which is located in their rear yard.
- St. Sharbel Maronite Catholic Church is requesting a 24.71-square-foot electronic message center, being 4.71 square feet larger than permitted.

ADJOURNMENT

Motion by Mr. Pearl, supported by Mr. D’Angelo, to adjourn the meeting. Motion carried. The meeting adjourned at 7:09 p.m.

Respectfully submitted,

Robert M. Campbell

Robert M. Campbell, Secretary
CLINTON TOWNSHIP BOARD OF APPEALS

ces:10/09/18

ces:10/10/18

Approved 10/17/18